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150 So. Champlain St. | P.O. Box 1489 | Burlington, VT 05402-1489

LAUREN B. LAYMAN  
ADMITTED IN VT AND VA  
llayman@primmer.com  
TEL: 802-864-0880  
FAX: 802-864-0328

December 21, 2015

## VIA ELECTRONIC & FIRST CLASS MAIL

Donna Jerry  
Senior Health Policy Analyst  
Green Mountain Care Board  
89 Main Street, 3<sup>rd</sup> Floor, City Center  
Montpelier, VT 05602

Re: Green Mountain Surgery Center  
Docket No. GMCB-010-15con

Dear Donna:

This letter is in response to ACTD LLC's letter dated December 11, 2015 asking that ACTD LLC's responses to Question 4 from the Green Mountain Care Board's ("GMCB") request for additional information sent on August 28, 2015 ("Question 4") remain confidential. The Vermont Association of Hospital and Health Systems ("VAHHS") and Northwestern Medical Center ("NMC") understand ACTD LLC's concerns about widely disseminating its responses to Question 4 to the general public. However, as interested parties in this matter, it is critical that VAHHS and NMC have access to this information to be able to evaluate the "substantial and direct impact" that ACTD LLC will have on VAHHS' members and NMC, and to respond to ACTD LLC's conclusions that the ambulatory surgery center will meet the Certificate of Need Standards.

In its application, ACTD LLC relies on data from "16 physicians who are extremely interested in performing cases at the proposed ambulatory surgery center"<sup>1</sup> (listed as physicians "A-P" in the table on page 27) as the basis for its conclusions about need, capacity and impact on other hospitals. For example, ACTD LLC's conclusion that the ambulatory surgical center will have little impact on the "services, expenditures and charges"<sup>2</sup> of the University of Vermont Medical Center ("UVMC")<sup>3</sup> is based on UVMC revenues from outpatient surgical procedures compared to the anticipated revenues of ACTD LLC<sup>4</sup>, which are based on the payor mix and

<sup>1</sup> *The Green Mountain Surgery Center Certificate of Need Application ("Application")*, page 26, July 2, 2015.

<sup>2</sup> 18 V.S.A. §9437(2)(B)(i).

<sup>3</sup> ACTD LLC assumes in its application that UVMC will be the only hospital significantly impacted by ACTD LLC's operation. However, as VAHHS and Northwestern Medical Center note in their letters seeking interested party status (both submitted on 7/31/15), this is not the case.

<sup>4</sup> *Application*, 60.

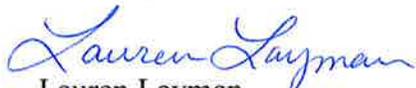
procedure volumes of the sixteen interested physicians.<sup>5</sup> As interested parties, VAHHS and NMC need to be able to evaluate and respond to these revenue claims and to ACTD LLC's conclusions about the impact ACTD LLC will have on other hospitals.

Similarly, ACTD LLC's conclusions about need for additional outpatient surgery capacity and whether there will be sufficient demand for ACTD LLC's services are based on the sixteen interested physician's experiences accessing local hospital facilities<sup>6</sup> and on the historical volumes of procedures provided by these physicians.<sup>7</sup> To evaluate and respond to these claims, VAHHS and NMC need to have access to the data ACTD LLC provides in response to Question 4.

VAHHS and NMC understand that ACTD LLC does not want its responses to Question 4 to be widely disseminated. To accommodate this interest, VAHHS and NMC would be willing to consider a confidentiality agreement that would permit interested parties to review the information provided in response to Question 4 without releasing the information to the general public.

Thank you for your consideration.

Best Regards,

  
Lauren Layman

Cc: Judy Henkin, Health Policy Director  
Eileen Elliot, Dunkiel Saunders  
Julia Shaw, Office of the Health Care Advocate

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<sup>5</sup> *Application*, 28.

<sup>6</sup> *Application*, 11.

<sup>7</sup> *Application*, pp. 26 and 39.